

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

OTTO ROUSSEAU,

Plaintiff,

v.

No. CIV 08-383 JB/LAM

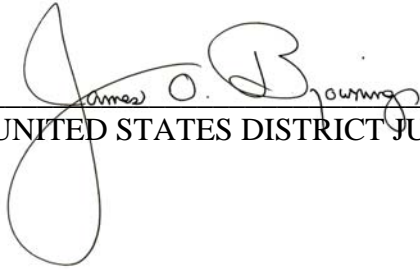
CARL CLELAND, PPD, et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER comes before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition (hereinafter, "PF&RD"), filed on June 18, 2009 (Doc. 46). Neither Plaintiff Otto Rousseau nor the Defendants have filed objections to the PF&RD, and the deadlines for doing so have passed. The Court has determined that it will adopt the PF&RD and dismiss Plaintiff's Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 (Doc. 1) and this case without prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for failure to state a claim on which relief may be granted. Consequently, the Court will deny Defendants' Motion for Summary Judgment (*Doc. 36*) as moot.

IT IS ORDERED that: (I) the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 46) are adopted by the Court; and (ii) that the Plaintiff's Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 (Doc. 1) is dismissed without prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for failure to state a claim on which relief may be granted; and (iii) that the Defendants' Motion for Summary Judgment (Doc. 36) is denied as moot. A judgment dismissing this case without prejudice will be entered concurrently with this Order.


UNITED STATES DISTRICT JUDGE